

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

PHILIP A. KENNER, *et al.*,

Defendants.

Criminal Docket No. 13-0607 (JFB)

**DECLARATION OF XOCHITL S.
STROHBEHN**

I, Xochitl S. Strohbahn, declare under penalty of perjury that the information set forth below is true and correct:

1. I am a counsel in the law firm of Venable LLP in New York, NY. Venable LLP represents Petitioner Danske Bank A/S London Branch (“Danske”) in an ancillary proceeding brought in connection with the above criminal matter.

2. I respectfully submit this Declaration in support of Petitioner’s Reply Brief in Support of Danske’s Motion for Summary Judgment and in opposition to the government’s cross-motion in order to place before the Court true and correct copies of documents referred to in the accompanying Reply Brief in support of Danske’s motion for summary judgment and in opposition to the government’s cross-motion.

3. A true and correct copy of the October 25, 2010 Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy 9019(b) Authorizing and Approving a Settlement and Compromise Among Lehman Brothers Holdings, Inc., Lehman Commercial Paper, Inc., and Danske Bank A/S, London Branch, filed in the Lehman bankruptcy action, *In re Lehman Brothers*

Holdings Inc., at al., 08-13555 (JMP) (Bankr. S.D.N.Y. 2010), is attached hereto as **Strohbehn Exhibit 1**.

4. A true and correct copy of the ancillary petition of claimant Continental Trust, Docket No. 86 in the case captioned *United States v. Swartz*, 5:16-cr-002640-DNH (N.D.N.Y. 2017), is attached hereto as **Strohbehn Exhibit 2**.

5. True and correct copies of certified translations of Spanish language documents submitted with the Declaration of George Kostolampros in Support of Danske's Motion for Summary Judgment (the "Kostolampros Declaration"). Below is a listing of those certified Translation Reply Exhibit numbers and their corresponding to Kostolampros Ex. Numbers:

Strohbehn Ex. No.	Description of Document	MSJ Ex. No.
Strohbehn Ex. 3	2006 Loan Agreement between Lehman and DCSL	MSJ Ex. 4
Strohbehn Ex. 4	Irrevocable Guarantee Trust Agreement by Borrower in Favor of Lender (the "2006 Trust Agreement")	MSJ Ex. 12
Strohbehn Ex. 5	2006 Trust Agreement Registration with the Public Registry in Mexico	MSJ Ex. 13
Strohbehn Ex. 6	2006 Trust Agreement Notary Plus Public Registration in Mexico	MSJ Ex. 14
Strohbehn Ex. 7	2009 Amendment and Restatement Agreement to the Irrevocable Guaranty Trust Agreement	MSJ Ex. 60
Strohbehn Ex. 8	April 30, 2013 Second Amended Trust Agreement	MSJ Ex. 64
Strohbehn Ex. 9	2014 Amended and Restated Trust Agreement and related lien searches	MSJ Ex. 70

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed on October 9, 2020 in New York, NY.

/s/ Xochitl S. Strohbehn

XOCHITL S. STROHBEHN